

IN THE COURT OF APPEALS  
STATE OF ARIZONA  
DIVISION TWO

FILED BY CLERK

JAN 25 2007

COURT OF APPEALS  
DIVISION TWO

THE STATE OF ARIZONA,

Appellee,

v.

BRIAN BENJAMIN BARRAZA,

Appellant.

2 CA-CR 2006-0142  
DEPARTMENT A

MEMORANDUM DECISION

Not for Publication  
Rule 111, Rules of  
the Supreme Court

APPEAL FROM THE SUPERIOR COURT OF GILA COUNTY

Cause No. CR2005-004

Honorable Robert Duber II, Judge

AFFIRMED

Emily Danies

Tucson  
Attorney for Appellant

V Á S Q U E Z, Judge.

¶1 Represented by counsel, appellant Brian Benjamin Barraza was tried in absentia by a twelve-person jury. The jury found him guilty of possessing a deadly weapon as a prohibited possessor, a class four felony; disorderly conduct with a weapon, a class six felony; and threatening and intimidating, a class one misdemeanor.<sup>1</sup> The jury also found that

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<sup>1</sup>The court dismissed two other felony counts charged in the indictment at the state's request.

Barraza had two historical prior felony convictions within the previous ten years, that he had been on probation for one of those convictions when he committed the present offenses, and that he had threatened to inflict serious physical injury in the course of these offenses. Relying on the aggravating factors found by the jury, the trial court sentenced him to concurrent, aggravated prison terms of twelve and 4.5 years for the two felony convictions and to a concurrent, six-month jail term for the misdemeanor conviction pursuant to A.R.S. §§ 13-604(C), 13-604.02, and 13-707(A).

¶2 Barraza filed a timely notice of appeal, and the court appointed counsel to represent him. Counsel has filed a brief in compliance with *Anders v. California*, 386 U.S. 738, 87 S. Ct. 1396 (1967), and *State v. Clark*, 196 Ariz. 530, 2 P.3d 89 (App. 1999), stating that she has reviewed the record on appeal and found no arguable legal issues to raise. Counsel suggests, however, that the trial court's denial of Barraza's motion for a judgment of acquittal, made pursuant to Rule 20, Ariz. R. Crim. P., 17 A.R.S., "may provide the appearance of an arguable issue." Counsel has complied with the requirements of *Clark* by "setting forth a detailed factual and procedural history of the case with citations to the record, [so] this court can satisfy itself that counsel has in fact thoroughly reviewed the record." *Id.*, 196 Ariz. 530, ¶ 32, 2 P.3d at 97. And counsel has asked us to search the record for fundamental error. Barraza has not filed a supplemental brief.

¶3 We have reviewed the record and found that it contains substantial evidence to support Barraza's convictions. Consequently, the trial court did not abuse its discretion in denying Barraza's Rule 20 motion. *See generally State v. Alvarez*, 210 Ariz. 24, ¶ 10,

107 P.3d 350, 353 (App. 2005), *vacated in part on other grounds*, 213 Ariz. 467, 143 P.3d 668 (App. 2006). We have also searched the record for fundamental error pursuant to our obligation under *Anders* and have found none. The judgment of convictions and sentences are therefore affirmed.

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GARYE L. VÁSQUEZ, Judge

CONCURRING:

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JOHN PELANDER, Chief Judge

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JOSEPH W. HOWARD, Presiding Judge